

Agn. No. 11
6/24/03

Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**CONDITIONAL USE PERMIT NUMBER 01-094-(5)
OAK TREE PERMIT NUMBER 01-094-(5)
FIFTH SUPERVISORIAL DISTRICT / THREE-VOTE MATTER**

On June 24, 2003, your Board conducted its hearing on the above-entitled permits which propose grading activities and encroachment into the protected zones of five oak trees in connection with implementation of a habitat restoration plan in the Newhall Zoned District. At the conclusion of the hearing your Board indicated its intent to approve the permits and instructed us to prepare findings and conditions for approval. Enclosed are proposed findings and conditions for your consideration.

Very truly yours,

LLOYD W. PELLMAN
County Counsel

By
RICHARD D. WEISS
Acting Assistant County Counsel

APPROVED AND RELEASED:

LLOYD W. PELLMAN
County Counsel

RDW/
Enclosures

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
CONDITIONAL USE PERMIT NUMBER 01-094-(5)
OAK TREE PERMIT NUMBER 01-094-(5)**

1. The applicant is requesting a conditional use permit to authorize grading (excavation, removal, and off-site transportation) of 57,600 cubic yards of material and implementation of an approved California Department of Fish and Game Habitat Restoration Plan. The applicant is also requesting an oak tree permit to authorize the encroachment into the protected zone of five oak trees.
2. The applicant proposes to implement the approved Habitat Restoration Plan, which involves restoring and enhancing approximately 8.4 acres of disturbed and degraded riparian habitat, creating habitat restoration areas on the subject property. A 4.6-acre habitat restoration area ("primary mitigation area") will consist of stepped waterfalls and meandering stream channels. In addition, smaller pockets of disturbed land totaling 3.8 acres ("smaller mitigation area") to the west will be restored by removing non-native grassland and revegetating with native plantings propagated from adjacent areas. 7.04 acres of the Habitat Restoration Plan are provided as a mitigation measure for previously approved Phases I, II, and III of the Stevenson Ranch development. An additional 1.36 acres are provided as a mitigation measure for a previously approved project adjacent to the Stevenson Ranch Phase III site. To create these restoration areas, approximately 57,600 cubic yards of cut will be required, 40,200 cubic yards of which will be cut at the primary mitigation area and an additional 17,400 cubic yards of which will be cut at the smaller mitigation areas. All 57,600 cubic yards of cut will be exported and used in the development of Tract 33608 (Stevenson Ranch Phase III). Tract 33608 is approximately one mile east of the habitat restoration area.
3. The subject property is located in Dead Horse Canyon, approximately one mile west of the intersection of Stevenson Ranch Parkway and Pico Canyon Road in the Newhall Zoned District. The topography varies from flat to steep slopes containing native vegetation, oak woodland, non-native grasslands, and disturbed riparian habitat. Unpaved and paved roads extend north from Pico Canyon Road to the primary mitigation area. The 4.6-acre primary mitigation area is located on the north side of Pico Canyon Road, in previously disturbed areas used for former oil wells known as Ferguson 9-2 and Ferguson 8 and later for storage of equipment. The equipment was removed in 2000. Six smaller

mitigation areas totaling 3.8 acres are located farther west on the south side of Pico Canyon Road.

4. The subject property is zoned A-2-5 (Heavy Agricultural – 5-acre required area). Open space riparian habitat is consistent with the zoning designation.
5. Surrounding zoning consists of A-2-5 and R-1-5000 to the north, A-2-5 to the south and east, and A-2-2 and A-2-5 to the west.
6. The project site is currently vacant and was previously used by prior owners as a storage facility for building materials, storage containers, inoperable vehicles, and water tank trailers. Portions of the site are devoid of vegetation and covered with asphalt surface. A degraded channel with riparian scrub and an abandoned oil well also exist on-site. A partially paved road is nearby.
7. Surrounding land uses consist of:
 - Desert, single-family residences to the north;
 - Desert to the south;
 - Residential acreage, single-family residences, and desert to the east; and
 - Single-family residences and desert to the west.
8. The subject property is located within the proposed Stevenson Ranch Phase V project site, and applications are currently pending for a plan amendment and specific plan for 3,532 dwelling units, a zone change from A-2-2 and A-2-5 to "Specific Plan," a development agreement and a highway realignment for Pico Canyon Road (Case No. 98-182-(5)). An environmental impact report is currently being prepared for the Stevenson Ranch Phase V project. The subject restoration project is not part of the Stevenson Ranch Phase V project; it was initiated by the applicant to implement required off-site mitigation measures for the previously approved development of Stevenson Ranch Phases I, II, and III.
9. Conditions of this grant will insure that future nearby development, including road improvements, will not encroach upon the restoration area and an appropriate buffer area. A conservation easement to preserve the area as natural open space will be recorded after restoration work is complete.
10. The existing alignment of future Pico Canyon Road traverses the project site. The applicant's site plan depicts a feasible, alternative alignment of Pico Canyon Road that does not impact the project site.

11. The applicant's site plan depicts the proposed areas for grading on approximately 8.4 acres, the proposed transport route for the export of materials, on-site oak trees, the existing alignment of future Pico Canyon Road, and an alternative feasible alignment of Pico Canyon Road. The site plan also depicts 59 oak trees located within the restoration area. Five oak trees, of which one is heritage size, are identified for possible encroachment during grading. These trees are labeled numbers 2, 3, 15, 18, and 20 on the applicant's site plan. The heritage oak is tree number 2. No oak trees are proposed for removal or relocation.
12. The subject property is depicted within the Urban 2, Hillside Management, and Floodway/Floodplain land use categories in the Santa Clarita Valley Area Plan. The Urban 2 category is intended for residential development with a maximum density of 3.4 to 6.6 dwelling units per acre. Hillside management areas are intended to ensure that development will occur in the most suitable and least environmentally sensitive areas, and will be of a scale and intensity that is compatible with the natural resource values and character of the area. The floodway/floodplain classification provides guidelines to ensure that only development with the appropriate flood protective measures will occur within floodways and floodplains identified by the Department of Public Works or the U.S. Army Corps of Engineers.
13. The Santa Clarita Valley Areawide Plan does not directly address the creation of habitat restoration areas. However, the plan authorizes grading within hillside management and floodplain areas subject to certain guidelines. The applicant will be required to meet grading requirements to the satisfaction of the Department of Public Works and other public agencies, as applicable, pursuant to the recommended guidelines of the floodplain management area and hillside management area development standards of the Santa Clarita Valley Areawide Plan. Implementation of the proposed habitat restoration plan is consistent with the subject property's land use classification and the goals and policies of the Santa Clarita Valley Areawide Plan.
14. An oak tree report has been prepared by Land Design Consultants, a certified arborist. The Los Angeles County Forester and Fire Warden, Forestry Division, has reviewed the arborist's report and determined that the report is accurate and complete as to the location, size, condition, and species of the oak trees on site. The Forester and Fire Warden has recommended approval of the requested encroachments subject to conditions of approval set forth in its letter dated October 24, 2002.
15. In conjunction with the implementation of the Habitat Restoration Plan, but not a part of this application, the applicant has described a feasible alternative realignment of Pico Canyon Road, as the current proposed alignment traverses the project site. The realignment is necessary to show that a feasible, alternative

alignment exists that does not encroach on the restoration site. The applicant will not construct the road in connection with this project. Appropriate environmental review of the construction of Pico Canyon Road, including impacts on this restored habitat, will be performed at such time as the road is proposed to be constructed in connection with future development proposals.

16. An appropriate archaeological review was conducted during the initial study phase and a condition requiring the applicant to cease work should a potential archaeological site be discovered on-site will adequately protect potential cultural and archaeological resources.
17. The project site will be preserved as open space and will not require vehicular access or public services.
18. An appropriate environmental assessment was conducted for the site, and soil impacted by past on-site oil activity was removed to an off-site, legal disposal site. The environmental assessment further determined that exposure to impacted soil will not adversely affect the health and safety of on-site workers or of persons residing or working in the surrounding area.
19. An Initial Study was prepared for this project in compliance with the California Environmental Quality Act ("CEQA") and the Environmental Document Reporting Procedures and Guidelines of the County of Los Angeles. The Initial Study identified potentially significant geotechnical, flood, water quality, biota, and archaeological impacts of the project. Prior to the release of the proposed Mitigated Negative Declaration ("MND") and Initial Study for public review, the applicant made or agreed to revisions in the project that would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study and project revisions that there is no substantial evidence, in light of the whole record before the Board of Supervisors, that the project as revised may have a significant effect on the environment. Based on the Initial Study and project revisions, the Department of Regional Planning has prepared an MND for this project. Conditions or changes in the proposed project are necessary in order to ensure the proposed project will not have a significant effect on the environment, and a Mitigation Monitoring Plan has been designed and included as a condition of approval of this grant.
20. Prior to the public hearing before the Regional Planning Commission, staff received several public comments in opposition to the request. Those opposed were concerned about environmental impacts, specifically the impacts to oak trees caused by the construction of the realigned Pico Canyon Road. At its

hearing on the application, the Board of Supervisors heard similar testimony and testimony alleging that the County was failing to adequately address all of the environmental impacts associated with the depicted feasible alternative alignment of Pico Canyon Road. However, as indicated, the applicant is not proposing any road construction at this time, but is demonstrating conceptually that a feasible alternative to the current alignment exists. No decision has been made to construct Pico Canyon Road along the depicted alternative alignment and full environmental review will be conducted at the appropriate time that any alignment is proposed for actual implementation.

21. The goal of the subject Habitat Restoration Plan is to mitigate the loss of dry stream channels during the development of Stevenson Ranch Phases I, II, and III by creating riparian woodlands, riparian scrub, and wetlands. Non-native vegetation and soils will be excavated to depths of 12 feet; the 12 feet will bring the lower areas to within three to five feet of the water table. The smaller areas south of Pico Canyon Road will also be excavated to remove the ruderal and non-native grasses, and then revegetated with native cuttings from adjacent riparian vegetation.
22. The long-term goal of this plan is to establish a mature, self-sustaining native riparian plant community that will provide valuable habitat for wildlife populations. This is expected to take approximately three to five years; however, a variety of wildlife is expected to utilize the habitat within one to three years following the initial planting. A temporary irrigation system will be installed to support the plantings during the first five years. The habitat restoration areas, and a buffer area, will be dedicated as permanent open space. Only wildlife uses are projected for these areas.
23. Any future development in the surrounding area should not be situated such as to impact this mitigation site, including consideration of fire clearance zones.
24. The Board of Supervisors finds that, with appropriate restrictions as set forth in the conditions of approval, the proposed use will be compatible with surrounding land uses.
25. The mitigation measures in the MND are incorporated into the conditions of approval for this conditional use permit. The Mitigation Monitoring Plan, attached hereto, identifies the manner in which compliance with the measures adopted to mitigate or avoid potential adverse impacts to the environment is ensured.
26. The custodian of records of documents constituting the record of proceedings upon which the Board of Supervisors' decision is based in this matter is Russell Fricano of the Los Angeles County Department of Regional Planning.

The location of such documents shall be the Department of Regional Planning, Hall of Records, 13th Floor, 320 West Temple Street, Los Angeles, California 90012.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

- A. The proposed use is consistent with the adopted general plan for the area;
- B. The proposed use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare;
- C. The proposed site is adequate in size and shape to accommodate the required development features, or as is otherwise required in order to integrate said use with the uses in the surrounding area;
- D. The proposed site is adequately served, if necessary, by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, if any, and by other public or private facilities as are required;
- E. The proposed project is located and designed so as to protect the safety of current and future community residents and will not create significant threats to life and/or property due to the presence of geologic, seismic, slope instability, fire, flood, mud flow, or erosion hazard;
- F. The proposed project is compatible with the natural, biotic, cultural, scenic, and open space resources of the area;
- G. The proposed development demonstrates creative and imaginative design, resulting in a visual quality that will complement community character and benefit current and future community residents;
- H. The proposed development will be accomplished without endangering the health of the remaining oak trees subject to Part 16 of Title 22 of the County Code on the subject property;

- I. The proposed oak tree encroachments will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated; and
- J. The proposed oak tree encroachments will not be contrary to or be in substantial conflict with the intent and purpose of the oak tree permit procedure.

THEREFORE, THE BOARD OF SUPERVISORS:

- 1. Approves the MND prepared for the project, certifies that it has reviewed and considered the information contained in the MND prior to approval of the project, and determines that the project will not have a significant effect on the environment;
- 2. Certifies that the MND has been completed in compliance with CEQA, the state CEQA guidelines and the County's Environmental Reporting Procedures and Guidelines, and reflects the independent judgment and analysis of the County.
- 3. Adopts these findings regarding the MND and the project, and determines that the conditions of approval and mitigation measures identified in the MND are feasible, and will mitigate any potential significant environmental effects after adoption of the mitigation measures, as described in the MND;
- 4. Approves and adopts the Mitigation Monitoring Plan for the proposed project, incorporated in the MND, and pursuant to section 21081.6 of the Public Resources Code, finds that the Mitigation Monitoring Plan is adequately designed to ensure compliance with the mitigation measures during project implementation; and
- 5. Approves Conditional Use Permit and Oak Tree Permit Number 01-094-(5), subject to the attached conditions.

CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NUMBER 01-094-(5)
OAK TREE PERMIT NUMBER 01-094-(5)

1. This grant authorizes the use of the subject property for the excavation, removal, and transportation of 57,600 cubic yards of material from the project site along an approved haul route to an off-site location approximately one mile east of the subject property and for the encroachment into the protected zone of five oak trees, as depicted on the approved Exhibit "A," and implementation of an approved California Department of Fish and Game Habitat Restoration Plan, subject to all of the following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose until the permittee and the owner of the property, if other than the permittee, have filed at the office of the Department of Regional Planning ("Department") their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8 and until all required monies have been paid pursuant to Conditions Nos. 9, 10, and 11.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009, or any other applicable limitation period. The County shall notify the permittee of any claim, action, or proceeding, and the County shall reasonably cooperate in the defense.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the Department's cooperation in the defense, including, but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:

- a. If, during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit.

There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation; and

- b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents shall be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within two years from the date of approval. A one-year time extension may be requested, in writing, with the payment of the applicable fee, at least six months before the expiration date.
7. If any provision of this grant is held or declared to be invalid, the permit shall be void, and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the Los Angeles County Recorder. In addition, upon any transfer or lease of the subject property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its terms and conditions to the transferee or lessee of the subject property.
9. Within 15 days of the approval date of this grant, the permittee shall remit processing fees payable to the County of Los Angeles in connection with the filing and posting of a Notice of Determination in compliance with section 21152 of the Public Resources Code. The project is not *de minimis* in its effect on fish and wildlife and is not exempt from payment of a fee to the California Department of Fish and Game pursuant to section 711.4 of the Fish and Game Code. The current fee amount is \$1,275.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Prior to the use of this grant, the permittee shall deposit with the County of Los Angeles the sum of \$750. These monies shall be

placed in a performance fund which shall be used exclusively to compensate the Department for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fee provides for five annual inspections. The inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse the Department for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the approved site plan on file. The charge for additional inspections shall be the amount equal to the recovery cost at the time of payment. The current recovery cost is \$150 per inspection.

11. The permittee shall comply with all mitigation measures specified in the attached "Project Mitigation Measures Due to Environmental Evaluation" in accordance with the attached Mitigation Monitoring Program. As a means of ensuring the effectiveness of the mitigation measures set forth in the attached Mitigation Monitoring Program, the permittee shall submit mitigation monitoring reports to the Department for review and approval as required by the Department. The reports shall describe the status of compliance with the mitigation measures adopted as conditions of this grant. As provided in the Mitigation Monitoring Program, the permittee shall deposit the sum of \$3,000 with the Department within 30 days of the approval date of this grant to defray the cost of reviewing the required mitigation monitoring reports and verifying compliance with the Mitigation Monitoring Program.
12. This oak tree permit shall terminate upon the completion of all authorized oak tree encroachments and all required mitigation and monitoring, to the satisfaction of the County Forester and Fire Warden, Forestry Division.
13. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or so as to be a nuisance.

14. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided to the satisfaction of and within the time periods established by said department.
15. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
16. Any structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works.
17. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or nonprofit organization.
18. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
19. All material graded shall be sufficiently watered to prevent excessive amounts of dust during excavation and restoration of the habitat areas. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after project activities are done for the day. All clearing, grading, earth moving, or excavation activities shall cease during periods of high wind (i.e., greater than 20 miles per hour average over one hour) to prevent excessive amounts of dust. All materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.
20. All project activity shall be limited to those hours between 7:00 a.m. and 6:00 p.m., Monday through Friday; and 8:00 a.m. and 5:00 p.m. on Saturday. All stationary construction or excavation noise sources shall be sheltered or enclosed to minimize adverse effect on nearby residences and neighborhoods. Generator and pneumatic compressors shall be noise protected in a manner that will minimize noise inconvenience to adjacent residences. Parking of worker vehicles shall be on-site.

21. If any potentially significant archaeological or cultural resources are discovered in the course of excavation or restoration of the habitat areas, all project activities shall cease in that immediate area and the site shall be preserved until a qualified archaeologist has made a determination as to the significance of the site or findings. Any significant archaeological or cultural resources shall be recovered to the extent practicable, as determined by a qualified archaeologist, before resuming project activities in that area of the site.
22. The permittee shall provide training regarding the proper care and protection of the subject oak trees for all contractors and crews involved in any excavation or restoration work on the project site. The permittee's consulting arborist shall prepare a schedule of work activities wherein the arborist will be present on the project site to ensure compliance with the oak tree ordinance and the protection of the oak trees.
23. Upon completion of the required habitat restoration areas to the satisfaction of the California Department of Fish and Game, the permittee shall dedicate to the County or other appropriate public agency a conservation easement, approved by the County Counsel, to preserve the habitat restoration areas and a suitable buffer area as natural open space, including an area of sufficient size to ensure that future alignment or construction of Pico Canyon Road will not reduce the viability of the habitat restoration area, as determined by the County biologist.
24. The permittee shall re-create the habitat restoration areas should a natural event destroy or damage all or more than 50 percent of the project site, as verified by the Impact Analysis Section of the Department, while the County Mitigation Monitoring Program or any applicable jurisdictional agency monitoring period is in effect. Natural events described in this condition include, but are not limited to, fire and flood.
25. The future extension of Pico Canyon Road shall not traverse any portion of the project site. The permittee shall dedicate a right-of-way 50 feet from the centerline on Pico Canyon Road or on an alignment to the satisfaction of the County of Los Angeles Department of Public Works. The permittee shall also dedicate slope easements on Pico Canyon Road to the satisfaction of the Department of Public Works.
26. The property shall be developed and maintained in substantial conformance with the approved Exhibit "A." In the event that revised plans are submitted, the permittee shall submit three copies of the proposed plans to the Planning Director for approval. All revised plans must be accompanied by the written authorization of the property owner.

27. Any transportation of heavy equipment and/or materials which require the use of oversized transport vehicles on State highways will require a Caltrans transportation permit. Large-size truck trips shall be limited to off-peak commute hours.
28. The permittee shall comply with all recommended conditions and requirements set forth in the County of Los Angeles Forester and Fire Warden, Forestry Division, letter, dated October 24, 2002, except as otherwise required by said division. In addition, if any mitigation trees are planted, an acorn shall be planted within the watering zone of each replacement tree.
29. Prior to the issuance of any grading permit, the permittee shall submit a map showing in sufficient detail the location of the sites from which all excavated materials are proposed to be removed, the proposed transport route over streets and highways, and the location to which such material is to be imported. All hauling of excavated materials shall be restricted to a route approved by the Director of Public Works.
30. Any surplus habitat created by this project shall not be construed as approval for future projects.
31. Prior to the issuance of any grading permit, the permittee shall file an application for the proposed realignment of Pico Canyon Road with the County Interdepartmental Engineering Committee for its approval.
32. Prior to the encroachment into the protected zone of any oak tree as authorized by this grant, the permittee shall obtain all permits and approvals required for the work which necessitates such encroachment.

Attachments:

Project Mitigation Measures Due to Environmental Evaluation
Mitigation Monitoring Program

Letter from the Los Angeles County Forester & Fire Warden, dated October 24, 2002.